

1 Sandra I. Weishart (089782),
sweishart@barwol.com
2 Jason C. Love (228881)
jlove@barwol.com
3 BARGER & WOLEN LLP
633 West Fifth Street, 47th Floor
4 Los Angeles, California 90071
Telephone: (213) 680-2800
5 Facsimile: (213) 614-7399

6 Attorneys for Defendant
Unum Life Insurance Company of America
7
8
9

10 **UNITED STATES DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA
11

12 EDWARD L. SCHECHTER,
13 Plaintiff,
14 vs.
15 UNUM LIFE INSURANCE
COMPANY OF AMERICA and Does
16 1-10,
17 Defendants.
18
19
20
21
22
23
24
25
26
27
28

Case No.: 08 CV 459 WQH LSP

**DEFENDANT UNUM LIFE
INSURANCE COMPANY OF
AMERICA'S NOTICE OF
WITHDRAWAL OF MOTION TO
DISMISS DUE TO FILING OF
FIRST AMENDED COMPLAINT**

[FRCP Rules 12(b)6 and 12(e)]

Date: May 27, 2008
Time: 11:00 a.m.
Crtrm: 4

**NO ORAL ARGUMENT UNLESS
REQUESTED BY THE COURT**

Disc. C/O: Not Set
Motion C/O: Not Set
Trial Date: Not Set

Complaint Filed: March 12, 2008

1 TO THE ABOVE-ENTITLED COURT, TO PLAINTIFF EDWARD L.
2 SCHECHTER AND TO HIS ATTORNEYS OF RECORD:
3

4 PLEASE TAKE NOTICE that Defendant Unum Life Insurance Company of
5 America ("Unum Life") hereby withdraws its motion to dismiss Plaintiff Edward L.
6 Schechter's ("Plaintiff") First Claim for Relief for Breach of the Duty of Good Faith
7 and Fair Dealing or, in the Alternative, for a More Definite Statement ("Motion"),
8 currently set to be heard on May 27, 2008, at 11:00 a.m. Courtroom 4 of the above-
9 entitled Court Department.
10

11 Unum Life withdraws the Motion on the ground that Plaintiff has filed a
12 First Amended Complaint which deletes the claim for breach of the duty of good faith
13 and fair dealing and, therefore, the Motion is moot.
14

15 Dated: May 9, 2008

BARGER & WOLEN LLP

17 By: s/ Sandra I. Weishart
18 Sandra I. Weishart
19 E-mail: sweishart@barwol.com
20 Jason C. Love
21 E-mail: jlove@barwol.com
22 Attorneys for Defendant
23 Unum Life Insurance Co. of America
24
25
26
27
28

PROOF OF SERVICE

Edward L. Schechter v. Unum Life Insurance Company of America
USDC NO. 08 CV 459 WQJ LSP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: Barger & Wolen LLP, 633 W. Fifth Street, 47th floor. , Los Angeles, California 90071.

On **May 9, 2008**, I served the foregoing document(s) described as **DEFENDANT UNUM LIFE INSURANCE COMPANY OF AMERICA'S NOTICE OF WITHDRAWAL OF MOTION TO DISMISS DUE TO FILING OF FIRST AMENDED COMPLAINT** on the interested parties in this action by placing [] the original [X] a true copy thereof enclosed in sealed envelope addressed as stated in the mailing list below.

Harris I. Steinberg, Esq.
Levine, Steinberg, Miller & Huver
550 West C. Street, Suite 1810
San Diego, CA 92101

[X] BY MAIL

[X] I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

[X] BY CM/ECT

[X] Interested Party(ies) as listed above served through the Court's Case Management/ Electronic Case Filing (CM/ECT) system.

[X] (FEDERAL) I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.
Executed at Los Angeles, California on **May 9, 2008**.

Sonia Martinez
(Name)


(Signature)